

Message Text

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8/15/73 EXT. 20768

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FM SECSTATE WASHDC

TO AMCONSUL GUAYAQUIL

INFO AMEMBASSY QUITO

UNCLAS STATE 164763

E.O. 11652: N/A

TAGS: CGEN

SUBJECT: PREPARATION FOR GUAYAQUIL CONSULAR CORPS
CONVENTION

REF: GUAYAQUIL 774

1. REFTEL REQUESTED INFORMATION FROM DEPARTMENT ON POSITIONS USG HAS TAKEN RE VIENNA CONVENTION ON CONSULAR RELATIONS OF 1963. CONSUL PREDICTED THAT CERTAIN RECOMMENDATIONS FOR POSSIBLE AMENDMENTS TO CONVENTION MIGHT BE SENT TO UN AND THAT THESE AMENDMENTS MAY INCLUDE MORE LIBERAL PRIVILEGES AND IMMUNITIES, PARTICULARLY FOR HONORARY CONSULS.

2. AS A GENERAL PROPOSITION, USG REGARDS VIENNA CONVENTION AS EMBODIMENT (CODIFICATION) OF WIDELY ACCEPTED RULES OF INTERNATIONAL LAW AND PRACTICE ON CONDUCT OF CONSULAR RELATIONS. IT WAS DRAFTED WITH A VIEW TOWARDS UNCLASSIFIED

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RECORDING PREVAILING CUSTOMARY INTERNATIONAL LAW AND USG

APPLIES IT AS SUCH. IT IS TRUE THAT LAW AND PRACTICE HAVE CONTINUED TO EVOLVE SINCE TABLING OF THE CONVENTION AND, AS A CONSEQUENCE, MORE RECENT BILATERAL CONVENTIONS MAY CONTAIN SOMEWHAT BROADER AND/OR MORE "LIBERAL" PROVISIONS.

3. REGARDING THE VIENNA CONVENTION IN GENERAL, THE BEST SOURCE FOR GAINING AN UNDERSTANDING OF THE USG POSITION ON EACH ARTICLE IS SENATE EXECUTIVE PRINT E CONTAINING THE PRESIDENT'S MAY 5, 1969 TRANSMITTAL LETTER, THE REPORT OF THE SECRETARY OF STATE AND THE REPORT OF THE US DELEGATION TO THE UN CONFERENCE. A COPY IS BEING POUCHED SEPARATELY.

4. ON THE SPECIFIC QUESTION OF PRIVILEGES AND IMMUNITIES, EMBASSY SHOULD BE AWARE THAT RECENT CONSULAR CONVENTION NEGOTIATED BY USG, PARTICULARLY WITH EASTERN EUROPEAN COUNTRIES (POLAND, HUNGARY, ROMANIA AND CZECHOSLOVAKIA) CONTAIN PROVISIONS ON IMMUNITY WHICH ARE MORE EXTENSIVE THAN THOSE CONTAINED IN THE MULTILATERAL VIENNA CONVENTION. IN GENERAL, THESE PROVISIONS ARE SIMILAR ALTHOUGH NOT AS FAR-REACHING AS THOSE CONTAINED IN THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961, ARTICLES 31 THROUGH 38. FOR EXAMPLE, UNDER THE RECENTLY SIGNED CONVENTION WITH CZECHOSLOVAKIA, CONSULAR OFFICERS AND MEMBERS OF THEIR FAMILIES WHO ARE NATIONALS OR PERMANENT RESIDENTS OF RECEIVING STATE ARE IMMUNE FROM ALL CRIMINAL JURISDICTION OF THE RECEIVING STATE AT ALL TIMES AND, WITH CERTAIN STATED EXEMPTIONS, ARE ALSO IMMUNE FROM THE CIVIL AND ADMINISTRATIVE JURISDICTION OF RECEIVING STATE. THESE PROVISIONS MAY BE COMPARED WITH THE IMMUNITY PROVISIONS OF THE VIENNA CONSULAR CONVENTION, ARTICLES 41 THROUGH 44, WHICH PROVIDE BASICALLY IMMUNITY ONLY FROM JURISDICTION WITH RESPECT TO ACTS PERFORMED IN THE EXERCISE OF CONSULAR FUNCTIONS. ALSO, IT IS NOTED, THE VIENNA CONVENTION DOES NOT EXTEND IMMUNITY FROM JURISDICTION TO MEMBERS OF THE FAMILY OF A CONSULAR OFFICER OR CONSULAR EMPLOYEE.

5. SO THAT EMBASSY MAY MAKE A MORE DETAILED STUDY
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OF THESE AND OTHER MATTERS, DEPARTMENT IS POUCHING ALSO COPIES OF CONVENTIONS WITH EASTERN EUROPEAN COUNTRIES REFERRED TO ABOVE.

6. REGARDING HONORARY CONSULS, US HAS IN PAST TAKEN POSITION THAT SEPARATE TREATMENT THIS CATEGORY CONSULAR OFFICERS IS UNNECESSARY. RATHER, AS NATIONALS OR PERMANENT RESIDENTS OF THE RECEIVING STATE, THEY SHOULD

BE ACCORDED ONLY LIMITED PRIVILEGES NECESSARY FOR PROPER
EXERCISE THEIR OFFICIAL FUNCTIONS. THERE APPEARS TO BE
NO COMPELLING REASON TO CHANGE THAT POSITION THIS TIME.
ROGERS

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